

2003 DRAFTING REQUEST

Assembly Amendment (AA-AB371)

Received: 02/04/2004

Received By: agary

Wanted: Soon

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Randy Thorson (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Beverages

Extra Copies: RCT

Submit via email: YES

Requester's email: Rep.Underheim@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes for caterer operating under temporary license

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	agary 02/09/2004	wjackson 02/09/2004	rschluet 02/09/2004	_____	lemery 02/09/2004	lemery 02/09/2004	

FE Sent For:

<END>

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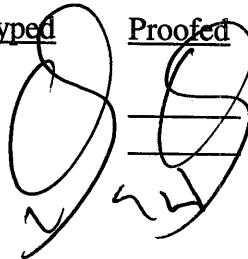
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/1	agary	/1 WLj 2/9					
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<END>

FE Sent For:

LRB a2122
2/04/04

Telephone conference with Randy Thorson in Rep. Underheim's office.
Needs simple amendment to AB-371. Remove 4 liter limit on liquor sales
for caterers. Include language to allow per person pricing for caterer sales.
Allow caterers to credit back to customers any unopened wine, liquor, or
beer.

ARG

*Needed before
2/17 exec.*

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, February 04, 2004 4:28 PM
To: Thorson, Randy
Subject: RE: AB 371

Randy,

I left a phone message in response to this e-mail. Give me a call when you have a chance. I have looked and am unaware of anything in the statutes related to a 4 liter limit on caterers. My guess is that the "4 liter limit" arises because caterers are basically not authorized to sell alcohol under existing law, and so some "de minimus" exception is applied to let them sell a little. With the enactment of this legislation, that "4 liter limit" should vanish without any language in the statute. If you would like further guidance on this, I recommend speaking with Roger B Johnson at DOR or request that you authorize me to contact Roger B Johnson to try to find out where the "4 liter limit" is coming from. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

2/5/04 Hc vm from Randy -
I should call Roger Johnson & get
this squared away. I'm authorized
to do so, & he has also talked to
Roger about this. Need this clarified.

-----Original Message-----

From: Thorson, Randy
Sent: Wednesday, February 04, 2004 3:35 PM
To: Gary, Aaron
Subject: AB 371

Aaron,

I called and talked with you about an amendment to the Off Premise Catering Bill AB 371. I am going to attach the pertinent information from two emails that need to mesh into the amendment. They are pretty much the same, but I have to make sure that both parties are placated. Please call me after you have read these. I am at 266-2254

1. Remove the 4 liter limit on liquor for caterers.
 2. Include language to allow caterers to sell a per person price for alcohol.
 3. Allow caterers to credit back to the customer, unopened beer, wine, and liquor.
-
1. Remove the 4 liter limit on liquor for caterers for a catered event at an unlicensed premise. Only events with 50% of food sales would be eligible to have liquor over 4 liters.
 2. Prohibit cash bar.
 3. Allow caterers to credit back to the customer, any unopened beer, wine, or liquor.

Randy Thorson
Research Assistant to
Gregg Underheim
State Representative
54th Assembly District

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, February 05, 2004 9:58 AM
To: Thorson, Randy
Subject: FW: AB 371

Randy,

I got your message this morning and spoke with Roger, and he confirmed that my "guess" (below) is in fact the case. With regard to the "second" item 1., the issue of "50%" is already addressed in the bill by the definition of caterer. With regard to the "second" item 2., I think this is probably inconsistent with what the first party wants. Do you want to check with the first party on whether "no cash bar" would be acceptable? Thanks. Aaron

Aaron R. Gary
Legislative Attorney
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608.261.6926 (voice)
608.264.6948 (fax)
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2/5/04 Hlc w/ Randy : include "no
cash bar"

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Randy Thorson
Research Assistant to
Gregg Underheim
State Representative
54th Assembly District

2/5/04

He ~ / Roger Johnson at DOR
6-6757

- guidelines for caterers →

- liquor →
 - limited to 4 liters for off premises

125.51 (3)(b)

- only by glass → off-premises →
 - superior →
 - Class A →

- in league manual for their members →

- Roger indicated that 4 liter limit is under current law; this bill would change that; so we need to treat that 4 liter in bill

**STATE OF WISCONSIN****Department of Revenue****Alcohol and Tobacco Enforcement Section**2135 Rimrock Road, Sixth Floor
Madison, WI 53713

FAX Number: 608 261-6240

Fax Cover Page

DATE:

1 of 3 pages (including cover sheet)

TO: Name: **AARON GARY**

Company:

FAX #: **264-6948**

FROM: Name: Roger B. Johnson

Phone #: (608) 266-6757

Please reply when received: YES ☒ NO

Comments:

*****IMPORTANT CONFIDENTIALITY NOTICE*****

This facsimile transmission from the Wisconsin Department of Revenue contains information which may be confidential or legally privileged. These documents are intended only for the use of the individual or entity named on this transmission cover sheet. If you or your firm are not the intended recipient and have received this transmission in error, you are hereby notified that reading, copying, disclosing, or distributing these documents, or taking any action based on the information contained within them, is strictly prohibited. The documents should be returned to this office immediately. Please notify us as soon as possible at the telephone number above, so that we can arrange to retrieve the transmitted documents at no cost to you.

Municipal Licensing and Regulation of Alcohol Beverages

Bureau of Alcohol, Tobacco and Firearms, Room 1710, 1000 N. Water St., Milwaukee, WI 53202. The Bureau's telephone number is (414) 297-3991.

2. SALES:

- a. State law does not prohibit the sale of a single can or bottle of beer.
 - i. If permitted by ordinance, a "Class B" liquor licensee may sell liquor in the original package or container, in quantities not exceeding four liters at any one time, for consumption away from the premises where sold. Wine may be sold for off-premise consumption in any quantity, regardless of whether the municipality has adopted an ordinance authorizing carryout liquor sales. See CLASSES OF LICENSES AND PERMITS, #1.e., page 2.
 - ii. There is no quantity restriction for any other class of license.
- b. Wine is classified as liquor in Wisconsin. Only the holders of valid "Class A" or "Class B" liquor licenses or temporary "Class B" (picnic) wine licenses may sell wine.
- c. Wine Coolers containing a fermented malt beverage base may be sold by Class "A" and Class "B" beer licensees and those possessing a temporary Class "B" (picnic) beer license.

3. POSSESSION OF LIQUOR ON BEER-LICENSED PREMISES:

A Class "B" beer licensee may not sell "set-ups" and allow customers to carry intoxicating liquor or wine into the licensed premises. No intoxicating liquor or wine may be possessed, sold, or brought into a beer-only licensed establishment. § 125.32(6).

4. OPERATION OF A LIQUOR STORE UNDER A "CLASS B" LIQUOR LICENSE: § 125.51(3)(B)

See #2.a.i., above.

5. WINERIES:

The Department may issue permits to wineries authorizing the manufacture and bottling of wine on the premises. A permittee may offer on the premises taste samples of wine manufactured on the premises to persons age 21 and over. A permittee may also obtain a "Class A" liquor or "Class B" liquor license, but not both. No "Class B" liquor license may be issued to a winery under § 125.51(3)(am) unless the winery has been issued a winery permit by the Department and the winery is capable of producing a least 5,000 gallons of wine per year in no more than 2 locations. A winery with a "Class B" license is only authorized to sell wine and may not sell beer or other intoxicating liquors. §§ 125.51(1)(a), 125.51(3)(am) and 125.53(1). See CLASSES OF LICENSES AND PERMITS, #1.e., page 2.

X 6. DOR'S GUIDELINES FOR CATERING ALCOHOL BEVERAGES:

A caterer holding a retail license may sell alcohol beverages to customers only if the sale is consummated on the licensed premises, with the buyer and seller both physically present at

the time of sale. Retail sales of alcohol beverages must be made on the licensed premises in the presence of either the licensee, the agent of the corporation if the licensee is corporate or the holder of a valid operator's license.

Wisconsin law forbids place-to-place deliveries, where the sale and delivery of alcohol beverages are made concurrently. A retailer may deliver alcohol beverages to an event as an agent of the purchaser if the alcohol beverages have been previously purchased from the retailer as provided above.

If the caterer possesses a "Class B" (on-premises) license, liquor may not be sold for off-premises consumption unless authorized by local ordinance. In such instances, liquor may be sold in multiples *not to exceed four liters* at any one time.

Alcohol beverages sold at the caterer's licensed premises cannot be catered at another licensed premises. Alcohol beverages may be *dispensed and consumed* (not sold) at a non-licensed premises if the event conducted is a private function and is not open to the public. The sale of all alcohol beverages used at the function must be made at the caterer's licensed premises, at which time they become the property of the purchaser. Any alcohol beverages so purchased and not used *may not* be returned to the caterer. Consignment sales are illegal.

The caterer may supply personnel to dispense alcohol beverages at catered functions. It is illegal to have a "cash bar" at events where alcohol beverages have been catered in.

7. LIQUOR ESTABLISHMENTS LOCATED ON INDIAN RESERVATIONS.

State alcohol beverage laws, including licensing requirements, are applicable to liquor establishments owned or operated by either tribe members or non-Indians, and located on Indian reservations. Any "Class B" liquor license issued to establishments located on an Indian reservation counts toward the issuing municipality's quota. 75 OAG 123 (1986). Also, tribally owned or operated liquor establishments must comply with state alcohol beverage licensing laws and obtain a license under Ch. 125. "Class B" liquor licenses issued to tribally-owned establishments count towards the issuing municipality's quota. 76 OAG 80 (1987).

Gary, Aaron

From: Gary, Aaron
Sent: Friday, February 06, 2004 1:03 PM
To: Thorson, Randy
Subject: RE: AB 371

Randy,

One more clarification: I am drafting this now and having a hard time reconciling, in the second party's points, item 2. and 3. As I understand the intent of these changes, caterers can't have a cash bar; that is, they can't charge a per drink price. Instead, they have to charge a fixed price for all beverages consumed, so, for example, you pay an extra \$9.00 regardless of whether you have 1 beer or 7 beers. If this is the case, how can you have a "credit" for unopened beverages? Thanks for any clarification you can provide. Aaron

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2/9 H/c w/ Randy - want to be
able to return unused barrels

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Randy Thorson
Research Assistant to
Gregg Underheim
State Representative
54th Assembly District

Gary, Aaron

From: Gary, Aaron
Sent: Friday, February 06, 2004 1:15 PM
To: Thorson, Randy
Subject: FW: AB 371

One more follow up, just for clarification: As with the "4 liter limit," the "no cash bar" is how things are done now because there is no specific statutory authorization for caterers. To the extent that the interested parties want this to continue, great. But to the extent that they have added this provision only because they think they need to, that is not the case. The bill changes existing law, so there is no need to stick with the "no cash bar" requirement under existing procedure unless they want to keep it that way. Aaron

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n/a the v/ Randy - want "no cash bar"

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Gregg Underheim
State Representative
54th Assembly District

TODAY

**ASSEMBLY AMENDMENT ,
TO 2003 ASSEMBLY BILL 371**

✓

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 3, line 20: after "subsection." insert "Notwithstanding sub. (1), a
3 license issued to a caterer under this subsection authorizes only the sale of fermented
4 malt beverages for a fixed per person price ✓ and does not authorize the sale of
5 fermented malt beverages priced per beverage. Notwithstanding s. 125.33 (9), a
6 caterer may accept from a customer the return, and provide a credit for the return,
7 of any unopened fermented malt beverage.".

8 ✓ 2. Page 4, line 12: after "bottle" insert "and is sold for a fixed per person price
9 rather than a per beverage price.".

10 ✓ 3. Page 4, line 12: after "caterer." insert "Notwithstanding s. 125.69 (6), a
11 caterer may accept from a customer the return of, and provide a credit for the return,
12 of any unopened intoxicating liquor.".

13 (END)